



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 1971-99

18 November 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 25 November 1987 at age 28. At that time you had completed about 10 years of active service on prior enlistments. The record shows that on 30 March 1989 you received nonjudicial punishment for use of marijuana. The punishment imposed included a reduction in rate and forfeitures of pay totaling \$1,000. Subsequently, you were placed on a urinalysis surveillance program and positive results for marijuana use were reported on 3 April, 22 June, 27 June, 28 June and 7 July 1989. The 7 July 1989 urinalysis also showed that you had used cocaine. The record also shows that on 19 April 1989 you were found not to be drug dependent by a medical officer.

Based on the foregoing record of drug abuse, you were processed for an administrative separation. In connection with this processing, you elected to waive the right to have your case heard by an administrative discharge board. On 10 October 1989 the discharge authority approved the recommendation of your commanding officer that you be discharged for misconduct with a discharge under other than honorable conditions. You were so discharged on 22 November 1989.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as your prior honorable service and the contentions that you have remained drug free for many years and have been a good citizen since discharge. The Board also considered your contention, in effect, that you received inadequate treatment for your drug problem. The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge given your record of extensive drug abuse. As indicated in the foregoing, you were found not to be drug dependent, which suggests that your continuing drug abuse was willful misconduct. However, even if you were drug dependent, the regulations do not preclude a discharge under other than honorable conditions, but only require that you be offered treatment for your drug dependency. The Board concluded that the discharge under other than honorable conditions was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director